

PHASE I ENHANCED 911 SERVICE AGREEMENT
BETWEEN _____ COUNTY
AND NEXTEL WEST CORP.

This Phase I Enhanced 911 ("E911") Service Agreement is made and entered into by and between _____ County, a governmental entity organized under the laws of the State of Washington (hereinafter "County"), and Nextel West Corp. (hereinafter "Provider"), a corporation organized under the laws of the State of Delaware, (collectively the "Parties"), for the installation and provision of Phase I E911 Service in compliance with applicable law, including but not limited to, the Federal Communications Commission ("FCC") Report and Order and Further Notice of Proposed Rulemaking in CC Docket No. 94-102, released July 26, 1996, and any subsequent FCC orders in that docket ("FCC Order").

WHEREAS, Provider provides for the exclusive use of the telephone number "9-1-1" for E911 Service; and

WHEREAS, Provider offers wireless telephone service within the geographic boundaries of County and 9-1-1 Calls from its customers will be routed to PSAPs within the County E911 system; and

WHEREAS, County has requested Phase I E911 Service in writing from Provider for each PSAP in the County, in accordance with the terms and conditions set forth herein; and

WHEREAS, the State Enhanced 911 Coordination Office has the responsibility of coordinating and facilitating the implementation and operation of enhanced 911 emergency communications systems throughout the State (RCW 38.52.520); and

WHEREAS, the Parties wish to implement Phase I E911 Service according to the terms and conditions described herein and in accordance with the FCC Order;

NOW THEREFORE, the Parties hereto agree as follows:

1.0 DEFINITIONS.

- 1.1 9-1-1 Call. A call made by a Provider Wireless End User by dialing "9-1-1" (and, as necessary, pressing the "Send" or analogous transmitting button) on a Wireless Handset.
- 1.2 Activation. The act of "turning on" or activating Phase I E911 Service for live use by Wireless End Users where service is available.
- 1.3 Activation Date. The date on which Activation takes place.
- 1.4 Address. For Phase I E911 Service, address is the identification of the Cell Site/Cell Sector which received the 9-1-1 Call, which may include the identification of a Cell Site address, Cell Sector orientation, and/or a text description of the area.
- 1.5 Automatic Location Identification/Data Management System ("ALI/DMS"). A system of manual procedures and computer programs used to create, store, and update the data required for Automatic Location Identification in support of E911 Service.
- 1.6 Automatic Location Identification ("ALI") Database. A computer database used to update the Mobile Directory Number information of Wireless End Users and the Cell Site/Cell Sector Information.
- 1.7 Cell Sector. An area, geographically defined according to Provider's own radio frequency coverage data, and consisting of a certain portion or all of the total coverage area of a Cell Site.
- 1.8 Cell Site. A Provider's radio frequency base station that receives calls from Wireless End Users.

- 1.9 Cell Sector Identifier. The unique alpha-numeric designation given to a particular Cell Sector that identifies that Cell Sector.
- 1.10 Commercial Mobile Radio Service (“CMRS”). As defined in 47 CFR, Section 20.3.
- 1.11 Company Identifier. A National Emergency Number Association (“NENA”) approved 3-5 character identity chosen by the telephone service provider that distinguishes the entity providing the dial tone to the subscriber.
- 1.12 Emergency Service Routing Key (“ESRK”). A routing number translated from the Cell Site or Cell Sector Identifier that routes the 9-1-1 Call to the appropriate PSAP. The number is also used as the unique call key for the corresponding host ALI record and represents the destination to which the call will be routed. This number cannot be dialed.
- 1.13 Enhanced 911 (“E911”) Service. A communication service whereby one or more Public Safety Answering Point (“PSAP”) locations, designated by County, may receive telephone calls dialed to the telephone number 9-1-1. E911 Service includes network facilities necessary for the answering, transferring, and forced disconnect of emergency 9-1-1 Calls originated by persons within the geographic area of County.
- 1.14 E911 Advisory Committee. The Committee established in RCW 38.52.530.
- 1.15 E911 Service Provider. The local exchange carrier providing the E911 Tandem/Selective Routing services for County’s wireline E911 Service.
- 1.16 E911 Tandem/Selective Router. A central office which provides tandem switching of 9-1-1 Calls. It controls switching of automatic number identification information to the PSAP and also provides the selective routing feature and certain maintenance functions for each PSAP.
- 1.17 Mobile Directory Number (“MDN”). A 10-digit dialable directory number used to call a Wireless Handset, i.e. the call back number.
- 1.18 Mobile Switching Center (“MSC”). A wireless carrier facility that houses the switching and trunking equipment serving wireless telephones in a defined area.
- 1.19 P.01 Grade of Service. Wireline trunk facility calculated to provide that during the average busy hour, no more than 1% of calls into the E911 System will encounter a busy condition.
- 1.20 Phase I Automatic Location Identification (“ALI”). The Mobile Directory Number information of Wireless End Users and the Cell Site/Cell Sector information.
- 1.21 Phase I E911 Service.
A service that facilitates the selective routing of 9-1-1 Calls and the display of Phase I ALI at the PSAPs.
- 1.22 Phase I Implementation Plan. A plan outlining the CMRS Provider’s plan for the implementation of Phase I E911 Service in the counties in Washington State. The plan shall include, but is not limited to: Phase I E911 Service activation date; network flowchart, including the CMRS provider’s relevant MSCs; specification of the technology used for interface to the E911 Tandem/Selective Router and the ALI/DMS, and a 9-1-1 Call flow description; procedures for updating Cell Site and Cell Sector Information; default and diverse routing plans; and an outline of Phase I E911 Service testing procedures.
- 1.23 Public Safety Answering Point (“PSAP”). An answering location designated by local governments for 9-1-1 Calls originating in a given area.
- 1.24 Vendors. Third party software developers and hardware providers, other vendors, and other suppliers and manufacturers of supplies and services that enable the provision of Phase I E911 Service.

- 1.25 Wireless End User. Any person or entity placing a 9-1-1 Call on Provider's CMRS system.
- 1.26 Wireless Handset. The wireless equipment used by a Wireless End User to originate or receive wireless telephone calls. The handset used to make the 9-1-1 Call may not have an associated MDN which can be used to place a return call to the handset.
- 2.0 PROVIDER RESPONSIBILITIES.
- 2.1 In accordance with the FCC Order and this Agreement, Provider shall provide Phase I E911 Service for 9-1-1 Calls processed through its CMRS system.
- 2.2 Provider agrees to cooperate and work in good faith with County and any necessary third parties (including, but not limited to: E911 Service Provider(s), ALI/DMS system provider, other PSAPs, and Vendors), to provide Phase I E911 Service to County.
- 2.3 Within sixty (60) days after the execution of the Agreement, Provider shall submit a Phase I Implementation Plan to County for review and approval. Upon approval, the plan shall be incorporated into this Agreement as Exhibit B.
- 2.4 Provider shall identify all Cell Sites/Cell Sectors, their addresses, latitude/longitude coordinates, and their coverage area within the geographic boundaries of County and coordinate with County to determine the most appropriate routing for 9-1-1 Calls from each Cell Sector. Provider shall provide County with quarterly lists of Cell Site addresses, Cell Sector Identifiers Cell Sector orientation, Cell Site latitude/longitude coordinates, ESRKs, and associated PSAPs. Providers shall promptly notify affected Counties of Phase I E911 Service affecting additions or changes to Cell Sites/Cell Sectors.
- 2.5 When a network problem is identified in which Phase I E911 Service is affected, Provider agrees to work with the County and the E911 Service Provider(s), the ALI/DMS system provider, and others as necessary, to promptly determine the source of the problem and make the necessary corrections.
- 2.6 Provider shall work with County to develop a plan for adequate capacity to provide Phase I E911 Service to Provider's Wireless End Users at a mutually agreed upon grade of service while using best efforts to prevent the PSAPs from being overloaded with wireless 9-1-1 Calls from a single incident. Provider agrees to work with the County to meet the County's congestion control goals.
- 2.7 Provider shall provide County with the results of quarterly traffic studies to allow the County to monitor the level of service.
- 2.8 Provider shall provide normal Public Switched Telephone Network monitoring of facilities to discover errors, defects, and malfunctions in the 911 transport provided by Provider.
- 2.9 When Phase I E911 service interruptions are identified, Provider agrees to work to restore service on a priority basis.
- 2.10 9-1-1 shall be a free call for Wireless End Users.
- 2.11 Provider shall provide County with a list of contact name(s), responsibilities, and telephone numbers, of personnel who are responsible for performing the duties described herein. The contact information shall include a twenty-four (24) hour per day, seven (7) day per week contact telephone number for reporting network problems and for PSAP contact in emergency situations. Provider shall notify County of changes in contact information.
- 2.12 Provider agrees to inform the County of planned implementation of Phase II service.

2.13 Provider shall register with NENA to obtain a Company Identifier which shall be included in Provider's ALI database for display at the PSAP.

2.14 Year 2000 Compliance. An information system is "Year 2000 Compliant" when the system is able to accurately process date data (including, but not limited to, calculating, comparing, and sequencing) from, into, and between the twentieth and twenty-first centuries, including leap year calculations.

Provider represents that any upgrades, modifications, and customizations to its software and equipment used by Provider to provide the service hereunder shall be Year 2000 Compliant.

3.0 COUNTY RESPONSIBILITIES.

3.1 County agrees to cooperate and work in good faith with Provider and, where necessary as determined by Provider, with third parties (including, but not limited to: Vendors, ALI/DMS system provider, other PSAPs, and Wireless Service Providers) for the successful implementation and provision of Phase I E911 Service.

3.2 County has determined that the PSAPs are capable of receiving and utilizing the data elements associated with Phase I E911 Service, and that a mechanism for covering the PSAP costs of receiving and utilizing the Phase I E911 data elements is in place.

3.3 County agrees to exercise best efforts to answer wireless 9-1-1 Calls transported by 911 circuits connected to Provider's MSCs.

3.4 The PSAPs within the County E911 System shall answer 9-1-1 Calls on a twenty-four (24) hour per day, seven (7) day per week basis.

3.5 County shall use its best efforts to ensure that there are a sufficient number of 911 circuits between the E911 Tandem/Selective Router and the PSAPs and provide customer premises equipment at the PSAPs with a capacity adequate to handle the number of incoming 911 circuits necessary to provide a P.01 Grade of Service.

3.6 County shall work with Provider to develop a plan for adequate capacity to provide Phase I E911 Service to Provider's Wireless End Users at a mutually agreed upon grade of service while using best efforts to prevent the PSAPs from being overloaded with wireless 9-1-1 Calls from a single incident. Provider agrees to work with the County to meet the County's congestion control goals.

3.7 On each 9-1-1 Call, the PSAPs shall attempt, where feasible, to determine the location of the incident with the caller to allow for the dispatching of emergency services.

3.8 If a County PSAP receives a wireless 9-1-1 Call and determines that the location of the caller is outside its serving area, the PSAP shall attempt to relay or transfer the 9-1-1 Call to the appropriate PSAP.

3.9 When Cell Site/Cell Sector coverage crosses jurisdictional boundary lines, County shall coordinate with the other jurisdictions affected to determine the most appropriate routing for the cell sector, and notify Provider in writing of agreed upon routing changes.

3.10 Unless another use is specifically authorized by law, County agrees to use the Phase I E911 ALI only for the purposes of responding to emergency situations.

3.11 County shall provide Provider with a list of PSAPs and their corresponding coverage areas for routing of wireless 9-1-1 Calls.

3.12 County shall provide Provider with a list of contact name(s), responsibilities, and telephone numbers, of personnel who are responsible for performing the duties described herein. The contact information shall

include a twenty-four (24) hour per day, seven (7) day per week contact telephone number for reporting network problems and for Provider contact in emergency situations. County shall notify Provider of changes in contact information.

4.0 CONFIDENTIALITY.

- 4.1 This Agreement is subject to public disclosure laws. This Agreement is considered a public document and will be available for inspection and copying by the public. If Provider considers any portion of the items delivered to the County to be protected under the law, Provider shall clearly identify each such portion with words such as "CONFIDENTIAL", "PROPRIETARY", OR "BUSINESS SECRET". If a request is made for disclosure of such portion the County will determine whether the material should be made available under the law. If the material is not exempt from public disclosure law, the County will notify Provider of the request and allow Provider twenty (20) days to take whatever action it deems necessary to protect its interests. If Provider fails or neglects to take such action within said period, the County will release the portions of the information deemed subject to disclosure. Provider assents to the procedure outlined in this paragraph and shall have no claim against the County on account of actions taken under such procedure. Provider's failure to specifically identify items as "CONFIDENTIAL", "PROPRIETARY", OR "BUSINESS SECRET" will not diminish Provider's proprietary rights in its trade secrets and other confidential information provided. If Provider fails to specifically label protected items, the County will not be liable to Provider for inadvertently releasing such items pursuant to a disclosure request.
- 4.2 This Agreement is made in order for each party to obtain from the other certain technical and business information related to the implementation and provision of wireless Enhanced 911 service under terms that will protect the confidential and proprietary nature of such information for the purpose of having each party exchange such information under such terms that will protect the confidential and proprietary nature of such information.
- 4.3 As used herein, "Confidential Information" shall mean any and all technical or business information, including third party information, furnished, in whatever tangible form or medium, or disclosed by one party to the other including, but not limited to, product/service specifications, prototypes, computer programs, models, drawings, marketing plans, financial data, and personnel statistics, so long as such information is clearly marked as confidential or proprietary. The disclosing party indicates to the other at the time of disclosure the confidential or proprietary nature of the information and provides a summary of the orally disclosed information in writing to the receiving party within twenty (20) days after such disclosure which summary is also marked as confidential. The Parties agree that Confidential Information shall include information provided by Provider to the County marked as "CONFIDENTIAL", "PROPRIETARY", OR "BUSINESS SECRET". The County shall ensure that each PSAP is aware of this provision and agrees in writing to comply, subject to public disclosure laws. The Parties further agree that all network performance data and end user data and information shall be considered Confidential Information.
- 4.4 Each party agrees to treat such Confidential Information as confidential for a period of three (3) years after termination of the Agreement otherwise agreed to in writing by both Parties, and that during such period each party will use same solely for the purposes of this Agreement unless otherwise allowed herein or by written permission of the disclosing party. In handling the Confidential Information each party agrees: (a) not to copy such Confidential Information of the other unless specifically authorized; (b) not to make disclosure of any such Confidential Information to anyone except employees and subcontractors of such party to whom disclosure is necessary for the purposes set forth above; (c) to appropriately notify such employees and subcontractors that the disclosure is made in confidence and shall be kept in confidence in accordance with this Agreement; and (d) to make requests for Confidential Information of the other only if necessary to accomplish the purposes set forth in this Agreement. The obligations set forth herein shall be satisfied by each party through the exercise of at least the same degree of care used to restrict disclosure and use of its own information of like importance. Notwithstanding the foregoing, disclosure may be made under the circumstances set forth in Section 4.1 of this Agreement.

- 4.5 Each party agrees that in the event permission is granted by the other to copy Confidential Information, or that copying is otherwise permitted hereunder, each such copy shall contain and state the same confidential or proprietary notices or legends, if any, which appear on the original. Nothing herein shall be construed as granting to either party any right or license under any copyrights, inventions, or patents now or hereafter owned or controlled by the other party.
- 4.6 Upon termination of this Agreement for any reason or upon request of the disclosing party, all Confidential Information, together with any copies of same as may be authorized herein, shall be returned to the disclosing party or certified destroyed by the receiving party.
- 4.7 The obligations imposed by this Agreement shall not apply to any information that: (a) is already in the possession of, is known to, or is independently developed from other public sources by the receiving party; (b) is or becomes publicly available through no fault of the receiving party; (c) is obtained by the receiving party from a third person without breach by such third person of an obligation of confidence with respect to the Confidential Information disclosed; (d) is disclosed without restriction by the disclosing party; (e) is consolidated so that confidential data cannot be attributed to a specific Provider; or (f) is required to be disclosed pursuant to the lawful order of a government agency or disclosure is required by operation of the law.
- 4.8 Except for the obligations of use and confidentiality imposed herein, no obligation of any kind is assumed or implied against either party by virtue of the party's meetings or conversations with respect to the subject matter stated above or with respect to whatever Confidential Information is exchanged. Each party further acknowledges that this Agreement and any meetings and communications of the Parties relating to the same subject matter, including the exchange of Confidential Information, shall not: (a) constitute an offer, request, or contract with the other to engage in any research, development or other work; (b) constitute an offer, request or contract involving a buyer-seller relationship, venture, teaming or partnership relationship between the Parties; or (c) impair or restrict either party's right to make, procure or market any products or services, now or in the future, which may be similar to or competitive with those offered by the disclosing party, or which are subject matter of this Agreement, so long as that party's obligations of confidentiality under this Agreement are not breached. The Parties expressly agree that any money, expenses or losses expended or incurred by each party in preparation for, or as a result of this Agreement or the Parties' meetings and communications, is at each party's sole cost and expense.
- 4.9 The Parties agree that neither party shall use any trade name, service mark, or trademark of the other or refer to the other party in any promotional activity or material without first obtaining the prior written consent of the other party.
- 4.10 The receiving party shall adhere to the U.S. Export Administration Laws and Regulations and shall not export or re-export any Confidential Information, technical data, or products received from the disclosing party, or any direct product of such Confidential Information or technical data, to any person or company who is a legal resident of or is controlled by a legal resident of any proscribed country listed in Section 779.4(f) of the U.S. Export Administration Regulations (as the same may be amended from time to time), unless properly authorized by the U.S. Government. This requirement is not limited by the time period stated in this Agreement.
- 5.0 LEGAL NOTICES.
- 5.1 Any legal notice to be given hereunder by either party to the other, shall be in writing and shall be deemed given when sent either by certified mail or by facsimile with a confirmation copy sent by certified mail. If either party changes its address during the term herein, it shall so advise the other party in writing as herein provided and any notice thereafter required to be given shall be sent by certified mail to such new address.

CONTACTS FOR LEGAL NOTICES

COUNTY

PROVIDER

Name (Typed or Printed)

Name (Typed or Printed)

Title

Title

Address

Address

Telephone Number

Telephone Number

Fax Number

Fax Number

6.0 INDEMNIFICATION AND HOLD HARMLESS.

Each party shall indemnify and hold harmless the other party, in connection with claims, losses, damages, liabilities, and law suits to the extent they arise from, or are alleged to arise from, the indemnifying party's negligent acts in connection with the indemnifying party's performance under this Agreement, or the indemnifying party's use of, or operation of, as the case may be, the service provided under this Agreement. This indemnity extends solely to claims and lawsuits for injuries to persons, death, or destruction of tangible property. IN NO EVENT SHALL EITHER PARTY BE LIABLE FOR ANY INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES TO THE OTHER PARTY.

7.0 EXCLUSION OF WARRANTIES.

Provider does not warrant that Phase I E911 Service will be free from interruption, disconnections, errors, or other out-of-service conditions. THE PARTIES ACKNOWLEDGE THAT THIS AGREEMENT IS A CONTRACT FOR THE PROVISION OF SERVICES AND THAT ANY GOODS PROVIDED HEREUNDER ARE ANCILLARY TO THE PROVISION OF THE REQUESTED SERVICES. WITH THE SOLE EXCEPTION OF ANY EXPRESS WRITTEN MANUFACTURER'S WARRANTY, WHICH MAY BE APPLICABLE TO PARTICULAR GOODS, ALL GOODS ARE PROVIDED "AS IS", THIS AGREEMENT EXCLUDES ALL WARRANTIES OF WHATEVER KIND, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

8.0 LIMITATION OF LIABILITY.

PROVIDER AND VENDOR LIABILITY IS LIMITED PURSUANT TO WASHINGTON STATE LAW (RCW 38.52.550 and RCW 80.04.010) AND FEDERAL LAW (Section 4 of the Wireless Communications and Public Safety Act of 1999).

9.0 TERM.

This Agreement shall commence upon execution by both parties. The Agreement shall continue from year to year as a one-year Agreement, but shall in no event continue for more than five (5) consecutive years. The Agreement shall automatically renew for the next one-year term unless terminated in writing by either party within ninety (90) days of the Agreement term end date. This Agreement may also terminate earlier if a Service Agreement is signed between the County and Provider for the implementation of Phase II Wireless E911 Service or if terminated pursuant to the provisions of Section 10, "Default". If this Agreement is terminated for any reason, except insufficient funds to cover the components of Phase I E911 Service designated as County responsibility by the FCC, Provider shall continue to provide Phase I E911 Service.

10.0 DEFAULT.

In the event that either party defaults in the performance of any obligation under this Agreement, the non-defaulting party will promptly notify the defaulting party. If such default is not cured and corrected within thirty (30) days (or such time as may be reasonable if so specified in the notice) of written notice thereof, then the non-defaulting party may immediately terminate this Agreement.

11.0 TERMINATION.

The County intends to continue the service provided under this Agreement for the entire term and to satisfy its obligations hereunder. The County shall continue to include in its budget request for each fiscal period appropriations or limitations sufficient to cover the County's obligations under this Agreement and will use all reasonable and lawful means to secure the appropriation of funds sufficient to make the payments becoming due in that fiscal period. The County reasonably believes that monies in amounts sufficient to discharge its obligations can and will lawfully be appropriated and made available for this purpose.

If expected or actual funding is withdrawn, reduced or limited in any way prior to the termination date set forth in this Agreement, the County may, upon written notice to Provider, terminate this Agreement in whole or in part. Such termination shall be in addition to the County's rights to terminate for default.

Payment shall not exceed the appropriation for the year in which termination is effected if the Agreement is terminated for non-appropriation. The County will be liable only for payment in accordance with the terms of this Agreement for Services rendered prior to the effective date of termination. Funding for this Agreement beyond the current appropriation year is conditional upon appropriation by the (Council/Commission) of sufficient funds to support the activities described in this Agreement. Should such an appropriation not be approved, this Agreement will terminate at the close of the current appropriation year. The appropriation year ends on December 31 of each year.

If this Agreement is terminated for any reason, except insufficient funds to cover the components of Phase I E911 Service designated as County responsibility by the FCC, Provider shall continue to provide Phase I E911 Service.

12.0 DISPUTE RESOLUTION.

All claims, regardless of legal theory, related directly or indirectly to this Agreement, whenever brought and whether between the Parties or between one of the parties to this Agreement and the employees, agents,

or affiliated businesses of the other party, may be resolved by mediation or arbitration. Either party may request mediation or arbitration, but compliance with such request is not mandatory. The Parties agree to share equally the cost of the mediator and the mediation and each party shall bear its mediation costs. The Parties shall choose a mediator from a list of names produced by both parties of former judges or attorneys knowledgeable and experienced in the area of telecommunications or technology. Within ten days of receipt of such a list, each party shall notify the other indicating which individuals listed are acceptable as mediators. Counsel for the Parties shall agree on a mediator. Unless separately agreed to by the Parties in writing, such mediation or arbitration shall not be binding on either Party.

13.0 DELAY/FORCE MAJEURE.

Provider shall exercise reasonable efforts in performing services pursuant to this Agreement, but Provider shall not be liable for any delays resulting from circumstances beyond its control, including acts of third parties and acts of God. If any party is rendered unable, wholly or in part, by force majeure, to perform or comply with any obligation or condition of this Agreement then, upon giving notice and reasonably full particulars to the other party, such obligation or condition shall be suspended only for the time and to the extent reasonably necessary to allow for performance and compliance and restore normal operations. In the event a party ceases to be excused pursuant to this provision and fails to perform its obligations under this Agreement, then the other party shall be entitled to exercise any remedies otherwise provided for in this Agreement, including termination for default.

14.0 GOVERNING LAW.

This Agreement shall be governed according to the laws of the State of Washington and applicable Federal Law. Jurisdiction and venue shall be in a court of competent jurisdiction in the County where the Phase 1 E911 Service is provided, subject to the provisions of RCW 36.01.050.

15.0 ASSIGNMENT.

Neither this Agreement nor any rights hereunder in whole or in part shall be assignable or otherwise transferable by either party and the obligations contained in this Agreement shall survive and continue three (3) years after termination of this Agreement, provided, that either party may assign or transfer this Agreement and rights and obligations hereunder to any current or future Affiliates or successor company if such assignee agrees in writing to the terms and conditions herein. For purposes of this Agreement another corporation is an Affiliate of a party if: (a) such party is the owner of at least twenty-five percent (25%) of the outstanding voting shares (other than directors qualifying shares) or interests of such other corporations; (b) such other corporation owns the majority of the outstanding voting shares (other than directors qualifying shares) or interests of such party (such corporation being the parent); or (c) such parent of such party is the owner of at least twenty-five percent (25%) of the outstanding voting shares (other than directors qualifying shares) or interests of such corporation.

16.0 SEVERABILITY.

The invalidity of any provision of this Agreement shall not affect the validity of the remaining provisions, and this Agreement shall be construed as if such invalid provision had been omitted. No provision of the Agreement may be terminated, modified or waived except as set forth in a written agreement executed by authorized representatives of the Parties. No terms and conditions of any County purchase order or invoice shall be effective if they add to or conflict with this Agreement.

17.0 COST RECOVERY.

- 17.1 Provider agrees to cover the costs of hardware and software components and functionalities that precede the E911 Tandem/Selective Router, the trunks from the Provider's MSC to the E911 Tandem/Selective Router, input to the E911 Tandem/Selective Router, database, and any other components necessary for the delivery of Phase I E911 Service. County agrees to cover the costs of maintaining and/or upgrading the E911 components and functionalities beyond the input to the E911 Tandem/Selective Router, including the E911 Tandem/Selective Router itself, the trunks between the E911 Tandem/Selective Router and the PSAPs, the ALI Database, and PSAP customer premises equipment. Provider and County agree to reimburse the other Party from the effective date of this Agreement for costs incurred as a result of Phase I E911 Service, in accordance with any subsequent decision of the FCC regarding Phase I E911 Service cost recovery obligations related to Petition for Reconsideration filed by Provider on June 6, 2001 in CC Docket No. 94-102, so long as no action to appeal is taken by either Party.
- 17.2 The State of Washington passed House Bill 2595, which amends RCW 38.52 and RCW 82.14B, providing a funding mechanism for Phase I E911 Service effective January 1, 2003. The Parties agree to abide by this cost recovery legislation. County agrees to provide cost recovery for Provider's costs of providing Phase I E911 Service pursuant to House Bill 2595 commencing January 1, 2003. For Counties requiring assistance from the state 911 excise tax on radio access lines established by RCW 82.14B.030(4), cost recovery for Provider's costs shall commence upon release of funds by the state E911 office to the County. If the funds generated by the 911 excise taxes established by RCW 82.14B.030(2) and (4) are not sufficient to cover Provider and County costs, Provider cost recovery may be reduced or terminated. County shall distribute available funds based upon each provider's market share within the County. Provider shall continue providing Phase I E911 Service pursuant to the FCC order and Paragraph 17.1 above. County must notify Provider at least six (6) months in advance of cost recovery changes.
- 17.3 Phase I service rates and payment schedule are specified in Exhibit C herein. Provider must notify County at least six (6) months in advance of service rate changes.

18.0 ENTIRE AGREEMENT.

This Agreement represents the entire agreement between the Parties, is a final, complete exclusive statement of the terms thereof, and supersedes and terminates any prior agreement, understanding, or representation between the Parties with respect thereto, whether written or oral.

19.0 EXECUTION.

This Agreement shall become effective upon execution by both parties.

20.0 EXHIBITS.

The Exhibits attached to and hereby incorporated into this Agreement are:

- EXHIBIT A: Contact Information
EXHIBIT B: Phase I E911 Service Implementation Plan (To be provided as described in Paragraph 2.3 within sixty days of the execution of this Agreement.)
EXHIBIT C: Phase I Service Rates and Payment Schedule

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed as of the last date signed below.

_____ COUNTY

NEXTEL WEST CORP.

Signature

Signature

Name (Typed or Printed)

Name (Typed or Printed)

Title

Title

Date

Date

Approved as to Form Only:

_____ County Deputy Prosecuting Attorney

Signature

Name (Typed or Printed)

Date